

Coast Guard, DHS

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§ 114.50 Right of appeal.

A District Commander's decision to deny a bridge permit application or an application for drawbridge operation regulations may be appealed to the Commandant, U.S. Coast Guard. The appeal must be submitted in writing to the Administrator, Office of Bridge Programs, (CG-BRG), 2100 2nd St., SW., Stop 7683, Washington, DC 20593-7683, within 60 days of the District Commander's decision. The Commandant will take action on the appeal within 90 days of its receipt.

(5 U.S.C. 559; 14 U.S.C. 633; 33 U.S.C. 401, 491, 499, and 525; 49 U.S.C. 1655(g), and 49 CFR 1.46(c) and (q))

[CGD 80-099, 46 FR 38354, July 27, 1981, as amended by CGD 88-052, 53 FR 25120, July 1, 1988; CGD 96-026, 61 FR 33663, June 28, 1996; CGD 97-023, 62 FR 33363, June 19, 1997; USCG-2008-0179, 73 FR 35012, June 19, 2008; USCG-2010-0351, 75 FR 36283, June 25, 2010; USCG-2010-0351, 75 FR 49410, Aug. 13, 2010; USCG-2012-0306, 77 FR 37314, June 21, 2012]

PART 115—BRIDGE LOCATIONS AND CLEARANCES; ADMINISTRATIVE PROCEDURES

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AUTHORITY: c. 425, sec. 9, 30 Stat. 1151 (33 U.S.C. 401); c. 1130, sec. 1, 34 Stat. 84 (33 U.S.C. 491); sec. 5, 28 Stat. 362, as amended (33 U.S.C. 499); sec. 11, 54 Stat. 501, as amended (33 U.S.C. 521); c. 753, Title V, sec. 502, 60 Stat. 847, as amended (33 U.S.C. 525); 86 Stat. 732 (33 U.S.C. 535); 14 U.S.C. 633.

SOURCE: CGFR 67-46, 32 FR 17771, Dec. 12, 1967, unless otherwise noted.

§ 115.01 Purpose.

This part states the requirements for applying for a permit to construct or modify bridges crossing the navigable waters of the United States. It also sets forth the procedures by which the

application is processed by the Coast Guard.

[CGD 82-006, 47 FR 36641, Aug. 23, 1982, as amended by USCG-2012-0306, 77 FR 37314, June 21, 2012]

§ 115.05 Necessary primary authority.

For bridges constructed by State or municipal agencies, the primary authority will be presumed without proof. If the law of the State requires a license for or approval of the bridge from a constituted State agency, a copy of such license or approval will be required and may be accepted as evidence of the primary authority. If there is no State regulation of bridges in navigable waters, the necessary primary authority may be that granted in the charter of a corporation, or the authority inherent in the ownership of the land on which the structure is placed. The applicant will in such cases be required to furnish an extract from the charter, or a statement of ownership. Special care will be taken that Federal approval is not granted when there is doubt of the right of the applicant to construct and utilize the bridge.

[CGFR 67-46, 32 FR 17771, Dec. 12, 1967, as amended by USCG-2011-0257, 76 FR 31836, June 2, 2011; USCG-2012-0306, 77 FR 37314, June 21, 2012]

§ 115.10 Limiting date in permits.

(a) Specific time limitations are inserted in all permits for the commencement of construction and completion thereof. Normally three years for start of construction and two additional years for completion may be allowed.

(b) Specific time limitations are inserted in all permits for the removal of bridges being replaced in whole or in part by the newly permitted bridges where removal thereof is required as a condition of the permit. Normally 90 days for removal after completion of the new bridge or opening to land transportation, whichever occurs first, may be allowed.

[CGD 75-046, 40 FR 24898, June 11, 1975, as amended by CGD 80-099, 46 FR 38354, July 27, 1981]

§ 115.15 Permit bonds.

When compensatory works or the removal of temporary structures should

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be required of the permittee, or in other unusual cases when there is reason to anticipate that the permittee may fail to carry out parts of the work that are against his interest, an additional condition will be included in the permit requiring the permittee to furnish a bond insuring compliance with the permit requirements.

§ 115.20 Transfer of permits.

Permits express merely the assent of the Federal Government so far as concerns the public rights of navigation. Although issued to a specific party, the assent is not limited to execution of the work by that party and may be availed of by the assignees or purchasers of the property affected, provided the terms of the instrument are strictly complied with.

§ 115.30 Sufficiency of State authority for bridges.

An opinion of the attorney general of the State as to the sufficiency of State authority for the construction of a bridge is acceptable to the Coast Guard in doubtful cases.

§ 115.40 Bridge repairs.

Repairs to a bridge which do not alter the clearances, type of structure, or any integral part of the substructure or superstructure or navigation conditions, but which consist only in the replacement of worn or obsolete parts, may, if the bridge is a legally approved structure, be made as routine maintenance without a formal permit action from the U.S. Coast Guard.

[CGFR 67–46, 32 FR 17771, Dec. 12, 1967, as amended by USCG–2012–0306, 77 FR 37314, June 21, 2012]

§ 115.50 Application for bridge permits.

(a) *Application.* An application for authorization to construct a bridge across navigable waters of the United States must include the name, address, and telephone number of the applicant; the waterway and location of the bridge; a citation to the applicable act of Congress; when appropriate, a citation to the State legislation authorizing the bridge; a map of the location and plans of the bridge showing the features which affect navigation; and

papers to establish the identity of the applicant.

(b) *Prior authority necessary.* Except as provided under paragraph (c) of this section, a bridge cannot lawfully be constructed across any navigable waterway of the United States until the location and plans have been approved by the Coast Guard.

(c) *Prior authority not necessary.* Coast Guard approval of the location and plans for construction or modification of a bridge or causeway is not required for any bridge or causeway over waters which are not subject to the ebb and flow of the tide and which are not used and are not susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce, whether or not such waters were used or were susceptible to use, at some previous time, to transport commerce (historic use). This provision does not apply to bridges which connect the United States with any foreign country.

(d) *Signature.* In case of signature by an agent or by an official of a corporation, a duly authenticated copy of the authority for the action must accompany the application.

(e) *Identification.* If the applicant is a corporation, it must furnish certified copies of the following papers, all properly authenticated: The charter or articles of incorporation; the minutes of organization; extract from minutes showing the names of the present officers of the corporation.

(1) Where State laws vest in State or county officers, such as boards of supervisors and county courts, the power to authorize the construction of bridges, they must furnish with their application certified extracts from their proceedings showing their action authorizing the proposed structure.

(f) *Plans.* One reproducible set of plans must be submitted with the application, on which the location of the work and the essential features covered by the application will be identified. Each drawing must have a title block located in the lower right-hand corner identifying the applicant/agent and bridge owner; the waterway; the milepoint on the waterway of the bridge location; the city, county, and state of the bridge location; the name